

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

SANTANA ROW HOTEL PARTNERS, L.P., ) CASE NO.: C 05-00198 JW

Plaintiff,

v.

ZURICH AMERICAN INSURANCE  
COMPANY, GALLAGHER-PIPINO, INC.,  
and ARTHUR J. GALLAGHER & CO.

Defendants.

**STIPULATION AND ORDER REGARDING  
THE CHANGE OF CERTAIN DATES IN  
THE SCHEDULING ORDER**

ZURICH AMERICAN INSURANCE  
COMPANY,

Cross-Complainant,

v.

GALLAGHER-PIPINO, INC.

Cross-Defendant.

Second Amended Complaint Filed: June 20, 2006

WHEREAS, the Court issued its Scheduling Order on October 26, 2005;

WHEREAS, on November 16, 2005, the Court granted Plaintiff Santana Row Hotel Partners,  
LP leave to file a first amended complaint, naming Arthur J. Gallagher & Company as a defendant;

WHEREAS, Defendant Zurich filed its Motion to Dismiss Plaintiff's first amended

1 complaint on January 13, 2006, which motion was denied by Order dated February 22, 2006;

2 WHEREAS, Arthur J. Gallagher & Company appeared and filed its answer on January 18,  
3 2006;

4 WHEREAS, on June 20, 2006, the Court granted Plaintiff Santana Row Hotel Partners, LP  
5 leave to file a second amended complaint, supplementing its causes of action against the broker  
6 defendants;

7 WHEREAS, the parties have and continue to conduct written discovery and to seek to resolve  
8 discovery disputes informally, and have and continue to resolve scheduling conflicts concerning the  
9 taking of oral depositions;

10 WHEREAS, approximately 300,000 documents have been produced by the parties and third-  
11 party witnesses in the discovery in this litigation, with the latest production occurring during the  
12 week of August 28, 2006;

13 WHEREAS, Defendant Zurich has conducted 19 depositions on the issues of insurance  
14 coverage and damages. Plaintiff has conducted three depositions (including an extensive 30(b)(6)  
15 deposition) and has noticed but not commenced one deposition;

16 WHEREAS, the Gallagher defendants have noticed and commenced but not completed one  
17 deposition on the issue of insurance coverage;

18 WHEREAS, pursuant to the October 26, 2005 Scheduling Order, as amended by Orders  
19 dated January 10, 2006 and March 13, 2006, the parties' Rule 26 expert disclosures are to be served  
20 on September 15, 2006, and the parties' motion(s) for summary adjudication regarding liability on  
21 the first and second claims for relief in Plaintiff's second amended complaint are scheduled for  
22 hearing on October 16, 2006;

23 WHEREAS, the Gallagher defendants have requested an additional 45 days to submit their  
24 F.R.C.P. 26(a)(2)(B) expert disclosure, and due to one of its expert consultants' medical condition  
25 Plaintiff requires an additional one week to make its F.R.C.P. 26(a)(2)(B) expert disclosure;

26 WHEREAS, the Gallagher defendants and Plaintiff believe that, under the current schedule,  
27 they will not have time to adequately prepare for either a productive F.R.C.P. 26(a)(2)(B) exchange  
28 or to fully brief the dispositive motions;

WHEREAS, all of the parties agree that the dates in the Scheduling Order should be changed to allow the parties to complete discovery, to engage in a more productive expert witness exchange, to otherwise narrow the issues for the submission of dispositive pre-trial motions, and to prepare for trial; and

WHEREAS, all parties agree that, in light of the complexity of the issues in dispute and the nature and scope of the issues to be litigated, the changes requested herein are necessary to the productive and orderly handling of this matter;

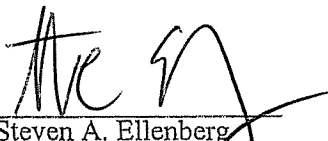
IT IS THEREFORE STIPULATED by and between the parties hereto, through their respective counsel of record, as follows:

1. The date regarding expert witness disclosure referenced in paragraph 4 of the Scheduling Order is changed from September 15, 2006 to November 3, 2006;
2. The date regarding the disclosure of rebuttal expert witnesses referenced in paragraph 8 of the Scheduling Order is changed from October 1, 2006 to November 30, 2006;
3. The date regarding the hearing of motions to exclude experts/expert testimony referenced in paragraph 7 of the Scheduling Order is changed from November 16, 2006 to January 15, 2007;
4. The date regarding the close of discovery referenced in paragraph 10 of the Scheduling Order is changed from November 15, 2006 to January 8, 2007;
5. The hearing date for motions or cross-motions for summary adjudication on liability under the first two claims for relief of Plaintiff's second amended complaint is changed from October 16, 2006 to November 20, 2006;
6. The last date for hearing of dispositive motions is changed from December 18, 2006 to January 29, 2007; and
7. The date for the filing and lodging of the Preliminary Pretrial and Trial Setting Conference statement is changed from January 15, 2007 to February 26, 2007, and the date for the Preliminary Pretrial and Trial Setting Conference is changed from January 29, 2007 to March 12, 2007.

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1 Dated: September 6, 2006

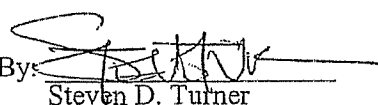
RUBY & SCHOFIELD

2  
3 By:   
4 Steven A. Ellenberg

5 Attorneys for Plaintiff, Santana Row  
6 Hotel Partners, L.P.

7 Dated: September 6, 2006

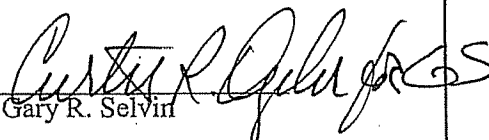
JONES TURNER, LLP

8  
9 By:   
10 Steven D. Turner

11 Attorneys for Defendant, Zurich  
12 American Insurance Company

13 Dated: September 6, 2006

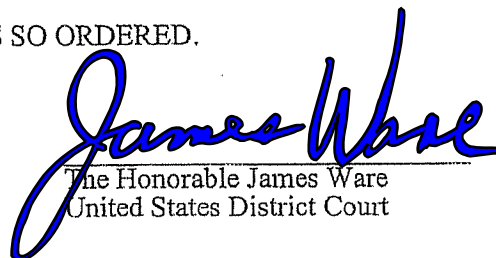
SELVIN WRAITH HALMAN, LLP

14  
15 By:   
16 Gary R. Selvin

17 Attorneys for Defendants, Gallagher  
18 Pipino, Inc. and Arthur J. Gallagher &  
19 Company.

20 PURSUANT TO THE ABOVE STIPULATION, IT IS SO ORDERED.

21 Dated: September 6, 2006

22  
23   
24 The Honorable James Ware  
25 United States District Court  
26  
27  
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